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MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Rene Bitsch :
Application No. 10/696,933 : ON PETITION
Filed: October 30, 2003 :
Attorney Docket No. M61.12-0532 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 16, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 6, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 7, 2007. The Office mailed a Notice of Abandonment on March 27, 2008. Applicant filed a petition on April 25, 2008, stating that he

never received the August 6, 2007 Office action. However, the petition was dismissed in a decision mailed on December 4, 2008. The petition was dismissed because petitioner did not submit a copy of a master docket report showing all of his replies docketed for a due date of November 6, 2007. Rather, petitioner only submitted a printout of the file history for the instant application.

To establish non-receipt of an Office action, a petitioner:

must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.¹

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

With the instant renewed petition, petitioner still has not submitted a copy of a master docket record showing all his replies docketed for a due date of November 6, 2007. Rather, petitioner has only submitted a copy of an incoming mail log for correspondence received from the Patent and Trademark Office from August 2, 2007 to August 31, 2007. If no master docket exists showing all replies **docketed** for a **due date** of November 6, 2007, petitioner should so state for the record.

¹ MPEP 711.03(c).

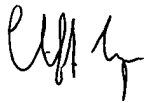
While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
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Office of Petitions